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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
10/614,591	07/07/2003	David Anthony Akerman	CM2495CL	7600	
24256 7	590 04/20/2004		EXAM	INER	
DINSMORE	& SHOHL, LLP	EINSMANN, N	MARGARET V		
1900 CHEMEI	1900 CHEMED CENTER				
			ART UNIT	PAPER NUMBER	
CINCINNATI, OH 45202			1751		

DATE MAILED: 04/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
	10/614,591	AKERMAN ET AL.
Office Action Summary	Examiner	Art Unit
	Margaret Einsmann	1751
The MAILING DATE of this communication a	_	
Period for Reply	·=	
A SHORTENED STATUTORY PERIOD FOR REF THE MAILING DATE OF THIS COMMUNICATION - Extensions of time may be available under the provisions of 37 CFR after SIX (6) MONTHS from the mailing date of this communication. - If the period for reply specified above is less than thirty (30) days, ar - If NO period for reply is specified above, the maximum statutory perior - Failure to reply within the set or extended period for reply will, by stat Any reply received by the Office later than three months after the mail earned patent term adjustment. See 37 CFR 1.704(b).	N. 1.136(a). In no event, however, may a re eply within the statutory minimum of thirt od will apply and will expire SIX (6) MON tute, cause the application to become AB	aply be timely filed y (30) days will be considered timely. THS from the mailing date of this communication. ANDONED (35 U.S.C. § 133).
Status		
1) Responsive to communication(s) filed on		
2a) ☐ This action is FINAL. 2b) ☑ Th	his action is non-final.	
3) Since this application is in condition for allow		
closed in accordance with the practice unde	r <i>Ex parte Quayle</i> , 1935 C.D	. 11, 453 O.G. 213.
Disposition of Claims		
4) Claim(s) / is/are pending in the applica	tion.	
4a) Of the above claim(s) is/are withd		
5) ☐ Claim(s) is/are allowed. 6) ☐ Claim(s) <u>1-%</u> is/are rejected.		
7) Claim(s) is/are objected to. 8) Claim(s) are subject to restriction and	Nor alastian requirement	,
8) Claim(s) are subject to restriction and	iror election requirement.	
Application Papers		
9)☐ The specification is objected to by the Exami		
10)☐ The drawing(s) filed on is/are: a)☐ a		
Applicant may not request that any objection to the		
Replacement drawing sheet(s) including the correct 11) The oath or declaration is objected to by the		
The oath of declaration is objected to by the	Examiner. Note the attached	Tollice Action of format 10-132.
Priority under 35 U.S.C. § 119		
12) ⚠ Acknowledgment is made of a claim for forei a) ☐ All b) ☐ Some * c) ☑ None of: 1. ☑ Certified copies of the priority docume		3 119(a)-(d) or (f).
2. Certified copies of the priority docume		
3. Copies of the certified copies of the pr		received in this National Stage
application from the International Bure * See the attached detailed Office action for a li	-	received
See the attached detailed Office action for a li	ist of the certified cobies flot	TOOCIYOU.
Attachment(s)	, -	(DTO 442)
1) X Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(Summary (PTO-413) s)/Mail Date
Information Disclosure Statement(s) (PTO-1449 or PTO/SB/0	08) 5) ☐ Notice of I 6) ☐ Other:	nformal Patent Application (PTO-152)

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DETAILED ACTION

Specification

On page 11 example 18 gives the substituent on ring D as DCTTr and the explanation below defines the substituent DCT. The specification should be amended so that the two items are the same.

Priority

Acknowledgment is made of applicant's claim for foreign priority based on an application filed in UK 0100192.4 on 1/05/2001. It is noted, however, that applicant has not filed a certified copy of the UK application as required by 35 U.S.C. 119(b).

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-8 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for reactive dye compounds of formula 3, does not reasonably provide enablement for compounds of formula 3 comprising no reactive groups. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the invention commensurate in scope with these claims. The only substituent on the

formula which may be a reactive group is R₃, which need not be present on the dye formula. Additionally R₃ may be a group which is not a reactive group when it is present. Reading the specification beginning at page 1, it is clear that applicant's invention encompasses only reactive dyes, said dyes being used in reactive dyeing as an improvement over known reactive dyes, for example Reactive Black 5.

Accordingly all dyes within the scope of formula 3 which do not contain reactive groups are not enabled by the specification.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The phrase, "or any moiety linked to the benzene ring by a carbon atom" is vague and indefinite. Additionally, one does not find clarification of said phrase in the specification.

Claim 8 is rejected as being redundant as it claims the same subject mater as claim 7.

Applicant is urged to replace "SES" in the claims with the unamended term as defined in the specification as SES is not a commonly known abbreviation.

Claim Rejections - 35 USC § 102

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The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

- (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.
- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Hoyer et al., US 4,492,654.

Hoyer discloses fiber reactive disazo compounds which contain the limitations of applicant's claimed compound 3 in its alternative tautomeric form and methods of dyeing and printing fibrous materials therewith. See the abstract and the formula (1) in column 1 lines 43 et seq. Note that X in formula 1 denotes a fluorine, chlorine or bromine atom. Example 1 in column 5 is applicant's formula 3 when R₁ is hydrogen, R₂ one is bromine and one is hydrogen and X is bromine and both n and m are 1, R₃ in each instance is betasulfatoethylsulfonyl para to the azo group as claimed in claims 2-5. Example 2 in column 6 is the same dye except that both R₂'s are hydrogen. Regarding the limitations of the product and process claims 6-7, Hoyer teaches that the compounds relate to the use of the compounds for the dyeing and printing of cellulose fiber materials, wool, silk, poylamide-6, polyamide-6,6, polyamide-11, polyamide-4 or leather. While Hoyer does not disclose that the dyeings have enhanced dye fastness Relative to reactive Black 5, since they are using the same dye as applicant is claiming,

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the dyeings produced must be equivalent to applicant's dyeings, since a compound cannot be separated from its properties.

Claims 1-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Hoechst, EP 0048355.

Hoechst discloses fiber reactive disazo compounds which contain the limitations of applicant's claimed compound 3 in its alternative tautomeric form and methods of dyeing and printing fibrous materials therewith. See the abstract and the formulae 245,254,258-60 and 278. Regarding the limitations of the product and process claims 6-7, Hoechst gives the color on a cotton product in the right hand column. While Hoechst does not disclose that the dyeings have enhanced dye fastness Relative to reactive Black 5, since they are using the same dye as applicant is claiming, the dyeings produced must be equivalent to applicant's dyeings, since a compound cannot be separated from its properties.

Claims 1-8 are rejected under 35 U.S.C. 102(a) as being anticipated by Dystar, EP 1046677 and under 102 (e) as being anticipated by Eichhorn, US 6,281,340. These are equivalent publications. These two patents disclose fiber reactive disazo compounds which contain the limitations of applicant's claimed compound 3 in its alternative tautomeric form and methods of dyeing and printing fibrous materials therewith. See example 32 on page 15 and 76 on page 18 in EP 104667 and the same examples 32 and 76 in the US. Regarding the limitations of the product and process claims 6-7, note column 1 first and second paragraphs of Eichhorn which states that the compounds are used for the dyeing and printing of cotton with improved

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application properties. While there is no disclosure that the dyeings have enhanced dye fastness Relative to reactive Black 5, since they are using the same dye as applicant is claiming, the dyeings produced must be equivalent to applicant's dyeings, since a compound cannot be separated from its properties.

Applicant is directed to US 6,126,700 wherein the inventors for Everlight, USA addressed the same problem addressed by applicants and solved it by blocking the position para to the azo with alkyl or alkoxy groups instead of with halogen groups as did applicants

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Margaret Einsmann whose telephone number is 571-272-1314. The examiner can normally be reached on 7:00 AM -4:30 PM M-Th and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on 571-272-1316. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Margaret Einsmann Primary Examiner Art Unit 1751

April 12, 2004